IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 162 of 1987
Date of decision: 13-9-2006

Smt. Darshna .....Appellant

Versus

Ram Chander and another .....Respondents

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present: Ms. Divya Sharma, Advocate,
for the appellant.

None for the respondent.

K.S.GAREWAL,J.

F.A.O. Nos. 162 and 318 of 1987 have been filed by the appellants to challenge the award of the learned Motor Accident Claims Tribunal, Gurgaon dated November 10, 1986 in respect of the award of compensation for the deaths of their sons. Appellants are seeking enhancement of compensation.

It was on April 27, 1986 at 3-00 P.M. Sanjay alias Pappu(12) was cycling with Vinod (11) sitting on the carrier. Sanjay was at a slow speed. Truck HYG 2639 came from behind from Gurgaon City. It was being driven by its owner Ram Chander in a rash and negligent manner. The driver did not sound the horn. The truck hit the cycle from behind. The accident resulted in Vinod getting crushed under the truck and Sanjay receiving multiple injuries. Sanjay was taken to the hospital where he too

died.

The appellant in F.A.O. 162 is the widowed mother of Sanjay while the appellants in F.A.O. 318 are of Vinod's parents. They had filed their respective applications for compensation under the Motor Vehicles Act against Ram Chander and New India Assurance Company which had ensured the truck in question. The learned Tribunal framed issues and came to the conclusion that the boys had died due to rash and negligent driving of the truck by Ram Chander who was also its owner. On the question of quantum of compensation, the learned Tribunal concluded that at the time of death Sanjay was 11 while Vinod was 12, they were students of the same school and Rs.20,000/- was awarded as compensation in the two claim applications.

Learned counsel for the appellant has sought enhancement of compensation and has cited **Ram Kumar and others Vs. Haryana Roadways Chandigarh** 2005(3) Punjab Law Reporter 809 and **Major R.S.Rawat and another Vs. Tilak Raj and others** 2004(2) Punjab Law Reporter 233. Learned counsel has also argued that award of Rs.20,000/- each was too meager an amount as the two boys would have certainly taken up some employment after completing education and started contributing to the family out of their earnings. The loss to the family would be much more than Rs.100/- per month after 6-7 years as assessed by the Tribunal.

There really can be no accurate method by which compensation can be assessed in respect of death of a 12 year old boy. Many factors can come into consideration. These are the financial status of the boy's family, its social standing, the likelihood of the boy completing education and

securing employment or following some vocation after completing studies, contributing to the family income for a period of about 5 to 6 years before himself getting married and supporting his own family.

In the present case nothing much is known about the financial status and social standing of the family of the two deceased boys. The learned Tribunal has also not given much indication as to how the award of Rs.20,000/- was determined except that reliance was placed on **K.L.Pasrija and others Vs. Oriental Fire and General Insurance Co. Ltd.** 1986 A.C.J. 252 and **Zenith Paper Vs. Gurmeet Kaur** (F.A.O. No. 38 of 1984) decided on April 6, 1984.

The authorities relied upon by the learned counsel for the appellants do not give us any clear indication about financial status and social standing of the respective families except that in Ram Kumar's case (supra) the mother of the deceased also died and was found to be earning about Rs.900/- per month as a tailor but her infant child who also died in the accident, which occurred in 1987, resulted in compensation of Rs.75,000/-.

In the case of Major R.S. Rawat(supra), the father of the deceased was a major in the army, the deceased was only 6 when the occurrence took place in 1983. Rs.2,00,000/- was awarded as compensation for the death of 6 years old boy. In the said case the financial position and social status of the family was known as father of the deceased was a major in the army. Therefore, Rs.2.00 lacs could be said to be a reasonable award.

Apart from some of the factors mentioned above there are other factors which may tend to reduce the contribution the boy would make after completing his education. These factors are the likelihood that the boy

may not excel in studies, may not get a regular well paying job, may decide to leave home and settle elsewhere.

Keeping all these factors into consideration it is felt that award of Rs.20,000/- was on the low side, the compensation deserves to be enhanced from Rs.20,000/- to Rs.50,000/- (this is the amount which is also awarded nowadays as compensation on the basis of principle of no fault).

These appeals are allowed and it is held that the appellants shall be entitled to compensation of Rs.50,000/- in each case. The enhanced amount would be payable with interest at 9% per annum from the date of the application till date of payment. The appellants shall also be entitled to costs. Both the appeals are disposed of in the above terms.

(K.S.GAREWAL)
JUDGE

September 13, 2006
RSK